

House File 260 - Introduced

HOUSE FILE 260

BY PETTENGILL

A BILL FOR

1 An Act relating to the authority of the plumbing and mechanical
2 systems board.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 105.2, subsections 14 and 17, Code 2013,
2 are amended to read as follows:

3 14. "*Medical gas system installer*" means any person who
4 installs or repairs medical gas piping, components, and
5 vacuum systems, including brazers, who has been issued a
6 valid certification from the national inspection testing
7 certification (NITC) corporation, or an equivalent authority
8 approved by the ~~board~~ department.

9 17. "*Routine maintenance*" means the maintenance, repair,
10 or replacement of existing fixtures or parts of plumbing,
11 HVAC, refrigeration, or hydronic systems in which no changes
12 in original design are made. Fixtures or parts do not
13 include smoke and fire dampers, or water, gas, or steam piping
14 permanent repairs except for traps or strainers. "*Routine*
15 *maintenance*" shall include emergency repairs, and the ~~board~~
16 department shall define the term "*emergency repairs*" to
17 include the repair of water pipes to prevent imminent damage
18 to property. "*Routine maintenance*" does not include the
19 replacement of furnaces, boilers, cooling appliances, or water
20 heaters more than one hundred gallons in size.

21 Sec. 2. Section 105.3, subsection 4, Code 2013, is amended
22 to read as follows:

23 4. If a person who has been appointed to serve on the
24 board has ever been disciplined by the ~~board~~ department,
25 all ~~board~~ department complaints and statements of charges,
26 settlement agreements, findings of fact, and orders pertaining
27 to the disciplinary action shall be made available to the
28 senate committee to which the appointment is referred at
29 the committee's request before the full senate votes on the
30 person's appointment.

31 Sec. 3. Section 105.3, Code 2013, is amended by adding the
32 following new subsection:

33 NEW SUBSECTION. 8. Notwithstanding section 21.5,
34 subsection 4, the office of the citizen's aide without an order
35 of the court and only for purposes of conducting a confidential

1 investigation in response to a complaint relating to the board
2 pursuant to section 2C.12, shall have access to the minutes and
3 audio recording of a closed session of a meeting of the board.

4 Sec. 4. Section 105.4, Code 2013, is amended to read as
5 follows:

6 **105.4 Plumbing installation code — rules.**

7 1. The department, in consultation with the board, shall
8 establish by rule a plumbing installation code governing the
9 installation of plumbing in this state.

10 2. The department, in consultation with the board, shall
11 adopt all rules necessary to carry out the licensing and other
12 provisions of this chapter.

13 Sec. 5. Section 105.5, subsection 1, Code 2013, is amended
14 to read as follows:

15 1. Any person desiring to take an examination for a license
16 issued pursuant to this chapter shall make application to the
17 ~~board~~ department in accordance with the rules of the ~~board~~
18 department. The application form shall be no longer than two
19 pages in length, plus one security page. The ~~board~~ department
20 may require that a recent photograph of the applicant be
21 attached to the application.

22 Sec. 6. Section 105.5, subsection 3, unnumbered paragraph
23 1, Code 2013, is amended to read as follows:

24 The department, in consultation with the board, shall adopt
25 rules relating to all of the following:

26 Sec. 7. Section 105.9, subsections 1, 2, 3, 5, 9, and 10,
27 Code 2013, are amended to read as follows:

28 1. The ~~board~~ department shall set the fees for the
29 examination of all applicants, by rule, which fees shall be
30 based upon the cost of administering the examinations.

31 2. The ~~board~~ department shall set the license fees and
32 renewal fees for all licenses issued pursuant to this chapter,
33 by rule.

34 3. All fees collected under this chapter shall be retained
35 by the ~~board~~ department. The moneys retained by the ~~board~~

1 department shall be used for any of the board's duties and
 2 the regulatory or administrative functions of the department
 3 under this chapter, including but not limited to the addition
 4 of full-time equivalent positions for program services and
 5 investigations. Revenues retained by the ~~board~~ department
 6 pursuant to this section shall be considered repayment receipts
 7 as defined in section 8.2. Notwithstanding section 8.33,
 8 moneys retained by the ~~board~~ department pursuant to this
 9 section are not subject to reversion to the general fund of the
 10 state.

11 5. *a.* The ~~board~~ department shall submit a report to
 12 the general assembly within sixty days following the end
 13 of each fiscal year. The reports shall include a balance
 14 sheet projection extending no less than three years. If the
 15 revenue projection exceeds expense projections by more than ten
 16 percent, the ~~board~~ department shall adjust ~~their~~ fee schedules
 17 accordingly, so that projected revenues are no more than ten
 18 percent higher than projected expenses. The revised fees shall
 19 be implemented no later than January 1, 2013, and January 1 of
 20 each subsequent year.

21 *b.* A license fee for a combined license shall be the sum
 22 total of each of the separate license fees reduced by thirty
 23 percent.

24 9. The ~~board~~ department may charge a fee for an application
 25 required by this chapter and submitted on paper if an internet
 26 application process is available.

27 10. The ~~board~~ department shall waive all renewal fees for
 28 all licenses that have an expiration date from January 1, 2011,
 29 through December 31, 2012.

30 Sec. 8. Section 105.10, subsections 1, 3, 4, and 5, Code
 31 2013, are amended to read as follows:

32 1. Except as provided in section 105.11, a person shall not
 33 operate as a contractor or install or repair plumbing, HVAC,
 34 refrigeration, or hydronic systems without obtaining a license
 35 issued by the ~~board~~ department, or install or repair medical

1 gas piping systems without obtaining a valid certification
2 approved by the ~~board~~ department.

3 3. The ~~board~~ department may allow a two-year delay in
4 implementing the licensure requirements for contractors who
5 employ fewer than ten mechanical professionals.

6 4. The department, in consultation with the board, shall
7 adopt rules to allow a grace period for a contractor to operate
8 a business described in subsection 2 without employing a
9 licensed master.

10 5. The department, in consultation with the board, shall by
11 rule provide for the issuance of a license for installers of
12 geothermal heat pump systems that shall require certification
13 pursuant to industry accredited installer certification
14 standards recognized by the United States department of energy.

15 Sec. 9. Section 105.12, subsection 2, Code 2013, is amended
16 to read as follows:

17 2. In addition to the certificate, the ~~board~~ department
18 shall provide each licensee with a wallet-sized licensing
19 identification card.

20 Sec. 10. Section 105.16, Code 2013, is amended to read as
21 follows:

22 **105.16 Change of residence.**

23 If a person licensed to practice as a contractor or a
24 plumbing, HVAC, refrigeration, or hydronic professional
25 under this chapter changes the person's residence or place of
26 practice, the person shall so notify the ~~board~~ department.

27 Sec. 11. Section 105.18, Code 2013, is amended to read as
28 follows:

29 **105.18 Qualifications and types of licenses issued.**

30 1. *General qualifications.* The department, in consultation
31 with the board, shall adopt, by rule, general qualifications
32 for licensure. The ~~board~~ department may consider the past
33 felony record of an applicant only if the felony conviction
34 relates to the practice of the profession for which the
35 applicant requests to be licensed. References may be required

1 as part of the licensing process.

2 2. *Plumbing, HVAC, refrigeration, and hydronic licenses and*
3 *contractor licenses.* The ~~board~~ department shall issue separate
4 licenses for plumbing, HVAC, refrigeration, and hydronic
5 professionals and for contractors as follows:

6 *a. Apprentice license.* In order to be licensed by the board
7 as an apprentice, a person shall do all of the following:

8 (1) File an application, which application shall establish
9 that the person meets the minimum requirements adopted by the
10 ~~board~~ department.

11 (2) Certify that the person will work under the supervision
12 of a licensed journeyman or master in the applicable
13 discipline.

14 (3) Be enrolled in an applicable apprentice program which is
15 registered with the United States department of labor office
16 of apprenticeship.

17 *b. Journeyman license.*

18 (1) In order to be licensed by the ~~board~~ department as a
19 journeyman in the applicable discipline, a person shall do
20 all of the following:

21 (a) File an application and pay application fees as
22 established by the ~~board~~ department, which application shall
23 establish that the person meets the minimum educational and
24 experience requirements adopted by the ~~board~~ department.

25 (b) Pass the state journeyman licensing examination in
26 the applicable discipline.

27 (c) Provide the ~~board~~ department with evidence of having
28 completed at least four years of practical experience as an
29 apprentice. Commencing January 1, 2010, the four years of
30 practical experience required by this subparagraph division
31 must be an apprenticeship training program registered by the
32 United States department of labor office of apprenticeship.

33 (2) A person may simultaneously hold an active
34 journeyman license and an inactive master license.

35 *c. Master license.* In order to be licensed by the ~~board~~

1 department as a master, a person shall do all of the following:

2 (1) File an application and pay application fees as
3 established by the ~~board~~ department, which application shall
4 establish that the person meets the minimum educational and
5 experience requirements adopted by the ~~board~~ department.

6 (2) Pass the state master licensing examination for the
7 applicable discipline.

8 (3) Provide evidence to the ~~board~~ department that the person
9 has previously been a licensed journeyman or master in the
10 applicable discipline.

11 *d. Contractor license.* In order to be licensed by the
12 ~~board~~ department as a contractor, a person shall do all of the
13 following:

14 (1) File an application and pay application fees as
15 established by the ~~board~~ department, which application shall
16 provide the person's state contractor registration number
17 and establish that the person meets the minimum requirements
18 adopted by the ~~board~~ department.

19 (2) Maintain a permanent place of business.

20 (3) Hold a master license or employ at least one person
21 holding a master license under this chapter.

22 3. *Combined licenses, restricted licenses.*

23 *a.* The ~~board~~ department may issue single or combined
24 licenses to persons who qualify as a contractor, master,
25 journeyman, or apprentice under any of the disciplines.

26 *b. Special, restricted license.* The ~~board~~ department
27 ~~may by rule provide,~~ in consultation with the board, adopt
28 rules providing for the issuance of special plumbing and
29 mechanical professional licenses authorizing the licensee to
30 engage in a limited class or classes of plumbing or mechanical
31 professional work, which class or classes shall be specified on
32 the license. Each licensee shall have experience, acceptable
33 to the ~~board~~ department, in each such limited class for which
34 the person is licensed. The ~~board~~ department shall designate
35 each special, restricted license to be a sublicense of either

1 a plumbing, HVAC, refrigeration, or hydronic license. An
 2 individual holding a master or journeyperson, plumbing, HVAC,
 3 refrigeration, or hydronic license shall not be required to
 4 obtain any special, restricted license which is a sublicense of
 5 the license that the individual holds. Special plumbing and
 6 mechanical professional licenses shall be issued to employees
 7 of a rate-regulated gas or electric public utility who conduct
 8 the repair of appliances. "*Repair of appliances*" means the
 9 repair or replacement of mechanical connections between
 10 the appliance shutoff valve and the appliance and repair of
 11 or replacement of parts to the appliance. Such special,
 12 restricted license shall require certification pursuant to
 13 industry-accredited certification standards.

14 c. The ~~board~~ department shall establish a special,
 15 restricted license fee at a reduced rate, consistent with any
 16 other special, restricted license fees.

17 d. An individual that holds either a master or journeyperson
 18 HVAC license or a master or journeyperson refrigeration license
 19 shall be exempt from having to obtain a special electrician's
 20 license pursuant to chapter 103 in order to perform disconnect
 21 and reconnect of existing air conditioning and refrigeration
 22 systems.

23 4. *Waiver.* Notwithstanding section 17A.9A, the ~~board~~
 24 department shall through December 31, 2009, waive the written
 25 examination requirements and prior experience requirements in
 26 subsection 2, paragraph "b", subparagraph (1), and subsection
 27 2, paragraph "c", for a journeyperson or master license if the
 28 applicant meets either of the following requirements:

29 a. The applicant meets both of the following requirements:

30 (1) The applicant has previously passed a written
 31 examination which the ~~board~~ department deems to be
 32 substantially similar to the licensing examination otherwise
 33 required by the ~~board~~ department to obtain the applicable
 34 license.

35 (2) The applicant has completed at least eight classroom

1 hours of continuing education in courses or seminars approved
2 by the ~~board~~ department within the two-year period immediately
3 preceding the date of the applicant's license application.

4 *b.* The applicant can demonstrate to the satisfaction of
5 the ~~board~~ department that the applicant has five or more years
6 of experience prior to July 1, 2008, in the plumbing, HVAC,
7 refrigeration, or hydronic business, as applicable, which
8 experience is of a nature that the ~~board~~ department deems to be
9 sufficient to demonstrate continuous professional competency
10 consistent with that expected of an individual who passes the
11 applicable licensing examination which the applicant would
12 otherwise be required to pass.

13 5. *Waiver for military service.* Notwithstanding section
14 17A.9A, the ~~board~~ department shall waive the written
15 examination requirements and prior experience requirements in
16 subsection 2, paragraph "b", subparagraph (1), and subsection
17 2, paragraph "c", for a journey person or master license if the
18 applicant meets all of the following requirements:

19 *a.* Is an active or retired member of the United States
20 military.

21 *b.* Provides documentation that the applicant was deployed
22 on active duty during any portion of the time period of July 1,
23 2008, through December 31, 2009.

24 *c.* Provides documentation that shows the applicant has
25 previously passed an examination which the ~~board~~ department
26 deems substantially similar to the examination for a
27 journey person license or a master license, as applicable,
28 issued by the ~~board~~ department, or provides documentation that
29 shows the applicant has previously been licensed by a state or
30 local governmental jurisdiction in the same trade and trade
31 level.

32 Sec. 12. Section 105.19, subsections 1 and 3, Code 2013, are
33 amended to read as follows:

34 1. An applicant for a contractor license or renewal of
35 an active contractor license shall provide evidence of a

1 public liability insurance policy and surety bond in an amount
2 determined sufficient by the ~~board~~ department by rule.

3 3. The insurance and surety bond shall be written by an
4 entity licensed to do business in this state and each licensed
5 contractor shall maintain on file with the ~~board~~ department
6 a certificate evidencing the insurance providing that the
7 insurance or surety bond shall not be canceled without the
8 entity first giving fifteen days' written notice to the board.

9 Sec. 13. Section 105.20, subsections 2, 3, and 5, Code 2013,
10 are amended to read as follows:

11 2. A license issued under this chapter may be renewed
12 as provided by rule adopted by the ~~board~~ department upon
13 application by the licensee, without examination. Applications
14 for renewal shall be made to the ~~board~~ department, accompanied
15 by the required renewal licensing fee, at least thirty days
16 prior to the expiration date of the license.

17 3. The ~~board~~ department shall notify each licensee by mail
18 at least sixty days prior to the expiration of a license.

19 5. The ~~board~~ department shall, by rule, establish a
20 reinstatement process for a licensee who allows a license to
21 lapse, including reasonable penalties.

22 Sec. 14. Section 105.20, subsection 6, paragraph a, Code
23 2013, is amended to read as follows:

24 a. The ~~board~~ department shall establish continuing education
25 requirements pursuant to section 272C.2. The basic continuing
26 education requirement for renewal of a license shall be the
27 completion, during the immediately preceding license term,
28 of the number of classroom hours of instruction required by
29 the ~~board~~ department in courses or seminars which have been
30 approved by the ~~board~~ department. The ~~board~~ department shall
31 require at least eight classroom hours of instruction during
32 each three-year licensing term.

33 Sec. 15. Section 105.21, Code 2013, is amended to read as
34 follows:

35 105.21 Reciprocal licenses.

1 The ~~board~~ department may license without examination a
2 nonresident applicant who is licensed under plumbing, HVAC,
3 refrigeration, or hydronic professional licensing statutes of
4 another state having similar licensing requirements as those
5 set forth in this chapter and the rules adopted under this
6 chapter if the other state grants the same reciprocal licensing
7 privileges to residents of Iowa who have obtained Iowa plumbing
8 or mechanical professional licenses under this chapter. The
9 department, in consultation with the board, shall adopt the
10 necessary rules, not inconsistent with the law, for carrying
11 out the reciprocal relations with other states which are
12 authorized by this chapter.

13 Sec. 16. Section 105.22, unnumbered paragraph 1, Code 2013,
14 is amended to read as follows:

15 A license to practice as a contractor or as a plumbing,
16 HVAC, refrigeration, or hydronic professional may be revoked
17 or suspended, or an application for licensure may be denied
18 pursuant to procedures established pursuant to chapter 272C by
19 the ~~board~~ department in consultation with the board, or the
20 licensee may be otherwise disciplined in accordance with that
21 chapter, when the licensee commits any of the following acts
22 or offenses:

23 Sec. 17. Section 105.22, subsection 10, Code 2013, is
24 amended to read as follows:

25 10. Any other such grounds as established by rule by the
26 department, in consultation with the board.

27 Sec. 18. Section 105.28, Code 2013, is amended to read as
28 follows:

29 **105.28 Enforcement.**

30 The ~~board~~ department shall enforce the provisions of this
31 chapter. Every licensee and member of the board shall furnish
32 the ~~board~~ department such evidence as the licensee or member
33 may have relative to any alleged violation which is being
34 investigated.

35 Sec. 19. Section 105.29, Code 2013, is amended to read as

1 follows:

2 **105.29 Report of violators.**

3 Every licensee and every member of the board shall report to
 4 the ~~board~~ department the name of every person who is practicing
 5 as a contractor or as a plumber or mechanical professional
 6 without a license issued pursuant to this chapter pursuant
 7 to the knowledge or reasonable belief of the person making
 8 the report. The opening of an office or place of business
 9 for the purpose of providing any services for which a license
 10 is required by this chapter, the announcing to the public in
 11 any way the intention to provide any such service, the use of
 12 any professional designation, or the use of any sign, card,
 13 circular, device, vehicle, or advertisement, as a provider of
 14 any such services shall be prima facie evidence of engaging
 15 in the practice of a contractor or a plumber or mechanical
 16 professional.

17 Sec. 20. Section 272C.1, subsection 6, unnumbered paragraph
 18 1, Code 2013, is amended to read as follows:

19 *"Licensing board"* or *"board"* includes the following boards
 20 or agencies:

21 Sec. 21. Section 272C.1, subsection 6, paragraph ae, Code
 22 2013, is amended to read as follows:

23 *ae.* The plumbing and mechanical systems board, created
 24 pursuant to chapter 105 and the department of public health
 25 acting pursuant to chapter 105.

26 EXPLANATION

27 This bill vests the department of public health with
 28 regulatory and administrative authority to implement Code
 29 chapter 105, relating to plumbers, mechanical professionals,
 30 and contractors. Rulemaking authority is vested with the
 31 department of public health, in consultation with the plumbing
 32 and mechanical systems board. The board retains the authority
 33 to conduct contested cases and impose licensee discipline,
 34 including revocation and suspension of licenses, but the bill
 35 provides that the department, in consultation with the board,

1 shall establish procedures and adopt rules relating to license
2 revocation or suspension.

3 The bill provides, notwithstanding Code section 21.5,
4 subsection 4, relating to closed session meetings held by
5 governmental bodies, that the minutes and audio recording of a
6 closed session of a meeting of the board shall be accessible
7 to the office of the citizens' aide without an order of the
8 court and only for purposes of conducting a confidential
9 investigation in response to a complaint relating to the board.